

IN THE HOUSE OF REPRESENTATIVES.

JANUARY 16, 1865.

Read twice, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. WILSON, on leave, introduced the following bill:

A BILL

To amend the judicial system of the United States.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That there is hereby established in each of the ten judicial
4 circuits of the United States a court of errors and appeals,
5 the style of which shall be the court of appeals for the
6 judicial circuit, which shall have jurisdiction to
7 hear and determine all cases which may be brought into it
8 from the circuit courts in said judicial circuit by appeal in
9 cases in equity, and in equity and maritime causes, and by
10 writ of error in cases at law; and shall have and exercise
11 over the circuit courts in said circuits, and over the judges
12 of said circuit courts, the same jurisdiction, authority, and
13 control, and by the same processes and writs, as are now by
14 law vested in and exercised by the Supreme Court of the
15 United States.

1 SEC. 2. *And be it further enacted,* That said court in
2 each of said circuits respectively shall be constituted of the
3 chief justice or associate justice of the Supreme Court, who
4 may be assigned to said circuit, and the judges of the circuit
5 courts in said circuit hereinafter provided for, whose duty it
6 shall be to attend and hold said court. A majority of the
7 judges of said court shall constitute a quorum, and be com-
8 petent to do the business of the court; and in the event of
9 there being no quorum present on the day for the commence-
10 ment of any term of said court, any judge thereof may
11 adjourn it from day to day until a quorum shall be present,
12 or may adjourn it until the next term thereof. The justice
13 of the Supreme Court for said circuit shall be the chief justice
14 and presiding officer of the court, and all the writs and pro-
15 cesses issuing from said court shall bear teste in his name,
16 and in his absence the oldest judge in commission, who may
17 be present, shall preside, and where two or more commis-
18 sions bear date of the same day, they shall take precedence
19 according to their ages. Each of said courts shall have a
20 seal, the form and device of which shall be prescribed by
21 the chief justice of the court, and a clerk, who shall also be
22 appointed by said chief justice.

1 SEC. 3. *And be it further enacted,* That the marshal of
2 the district in which said court shall be held shall be the mar-
3 shal of the court, and shall provide such rooms as may be

4 necessary for holding the court, and for the convenient con-
 5 sultation of the judges, and for all other incidental and proper
 6 expenses of the court, (including bailiffs and messengers to
 7 be appointed by the court,) in the same manner that the
 8 marshal of the District of Columbia now does for the supreme
 9 court. But said court may direct its writs and processes to
 10 the marshal of any district in which they are to be served.
 11 And the district attorney for the United States for the district
 12 in which said court shall be held, shall, and he is hereby.
 13 required to attend the sittings of said court, and to appear for
 14 and defend the interests of the United States in all causes or
 15 proceedings in said court, for which services he shall be al-
 16 lowed ten dollars per day while in actual attendance on the
 17 court, and such fees as are by law allowed to the attorney
 18 general for like services.

1 SEC. 4. *And be it further enacted,* That the present
 2 circuit courts for the northern and southern districts of New
 3 York, and for the eastern and western districts of Pennsylva-
 4 nia, shall remain, but in all other cases where there is more
 5 than one judicial district in any one State there shall be but
 6 one circuit court for said districts, which shall be called the
 7 circuit court for the districts of the State of . The
 8 circuit court for the districts of Ohio shall be held in Cincin-
 9 nati at the same time that the circuit is now by law held
 10 there for the southern district of Ohio, and shall in all respects

11 be the successor of the present circuit and district courts for
 12 the northern and southern districts of Ohio. And the circuit
 13 court for the districts of Michigan shall be held at Detroit
 14 at the same times that the terms are now held by the circuit
 15 court for the eastern district of Michigan, and shall be in all
 16 respects the successor of the present circuit and district courts
 17 for both the districts of Michigan. And the circuit court
 18 for the districts of Illinois shall be held at Chicago at the same
 19 times that the circuit court is now held for the northern dis-
 20 trict of Illinois, and shall be in all respects the successor of
 21 the present circuit and district courts for both districts of Illi-
 22 nois. And the circuit court for the districts of California
 23 shall be held at San Francisco at the same times at which
 24 the circuit court for the northern district of California is by
 25 law held, and shall in all respects be the successor of the
 26 present circuit and district courts for both the districts of
 27 California.

1 SEC. 5. *And be it further enacted,* That for every
 2 circuit court of the United States, there is hereby created
 3 the office of circuit judge, who shall be styled the judge of
 4 the circuit court for the district of , or the
 5 judge of the circuit for the districts or district of ,
 6 as the case may be. And the President shall, with the
 7 advice and consent of the Senate, appoint a suitable person
 8 residing within the limits of each of said circuit courts, re-

9 spectively, to fill said office, who shall exercise all the power,
10 jurisdiction, and authority now exercised by the judges of
11 the circuit courts of the United States, and such other
12 powers as may hereafter be conferred on said court and the
13 judges thereof, and who shall be paid for their services an
14 annual salary of dollars, in the same manner that
15 other judges of the United States courts are now paid.

1 SEC. 6. *And be it further enacted,* That the office of
2 judge of the district court is hereby abolished, and the dis-
3 trict courts of the United States are hereby abolished; and
4 all the jurisdiction, power, and authority heretofore vested in
5 and exercised by the said district courts and the judges there-
6 of are hereby transferred to and vested in the circuit courts
7 and the judges thereof, respectively. And all actions, suits,
8 prosecutions, causes, pleas, writs, processes, bonds, recogni-
9 zances, and other proceedings, now pending in or returnable
10 to any of said district courts, or in or to any of the circuit
11 courts which by this act cease, and all judgments, decrees,
12 and orders of said courts, shall be, and are hereby, transferred
13 to and made returnable to and in the circuit courts for said
14 districts, as recognized by this act; and said circuit courts
15 shall act and proceed in said case as if said actions, suits,
16 prosecutions, causes, pleas, writs, processes, bonds, recog-
17 nizances, judgments, orders, decrees, and proceedings, had

18 been enumerated, rendered, and proceeded with in said
19 circuit courts.

1 SEC. 7. *And be it further enacted,* That from all final
2 judgments or decrees hereafter rendered in the circuit courts,
3 in cases of equity, of admiralty, and maritime jurisdiction,
4 and of prize or no prize, where the matter in dispute shall
5 exceed the sum or value of five hundred dollars, exclusive of
6 costs, an appeal shall be allowed to the court of appeals for
7 the judicial circuit in which said judgment or decree was
8 rendered; and final judgments or orders of said courts in ac-
9 tions at law, whether civil or criminal, may, where the mat-
10 ter in dispute shall exceed the sum or value of five hundred
11 dollars, exclusive of costs, be carried by writ of error to said
12 court of appeals: *Provided,* That no sum or value shall be
13 necessary to enable either party to sue out a writ of error to
14 a final judgment in any criminal case.

1 SEC. 8. *And be it further enacted,* That in hearing and
2 deciding said appeals and writs of error the court of appeals
3 shall be governed by the same laws which now govern the
4 Supreme Court in hearing and deciding them, and that all
5 laws and rules now in force in regard to the manner of re-
6 moving said cases, and the records of them, from circuit
7 courts to the Supreme Court, shall be in force and apply to
8 the manner of removing said causes and records to said court
9 of appeals. And that all the laws and rules now in force for

10 enforcing the judgments, orders, decrees, and mandates of
11 the Supreme Court in cases of appeals and writs of error,
12 shall be in force and apply to the court of appeals.

1 SEC. 9. *And be it further enacted,* That no cause where
2 judgments and decrees shall hereafter be rendered in the
3 circuit courts shall be transferred in any manner directly from
4 said courts to the Supreme Court of the United States; but
5 all causes, except criminal causes, heard and determined in
6 the courts of appeals, where the matter in controversy shall
7 exceed the sum or value of one hundred thousand dollars,
8 exclusive of costs, or where is brought in question a construc-
9 tion of the Constitution of the United States, or any part
10 thereof, or the validity of any act of Congress, or treaty of
11 the United States, of conflict between the statute or statutes
12 of a State and an act or acts of Congress, may be removed
13 into the Supreme Court, by writ of error or appeal, as
14 the case may require, and the same shall be there heard
15 and determined as such cases are now heard and determined
16 when brought from the circuit courts; and all rules of the
17 Supreme Court and acts of Congress concerning the mode of
18 removing such cases from the circuit courts, shall be in force
19 and apply to the removal of such cases from the courts of
20 appeals. And the Supreme Court shall have and exercise
21 the same supervisory power and authority over the courts of

22 appeals and the judges thereof that it now does over the
 23 circuit courts and the judges of said courts.

1 SEC. 10. *And be it further enacted,* That the place of
 2 holding the court of appeals for the first judicial circuit shall
 3 be in the city of Boston; in the second judicial circuit, in the
 4 city of New York; in the third judicial circuit, in the city of
 5 Philadelphia; in the fourth judicial circuit, in the city of
 6 Baltimore; in the fifth judicial circuit, ;
 7 in the sixth judicial circuit, in the city of Louisville; in the
 8 seventh judicial circuit, in the city of Cincinnati; in the
 9 eighth judicial circuit, in the city of Chicago; in the ninth
 10 judicial circuit, in the city of Saint Louis; and in the tenth
 11 judicial circuit, in the city of San Francisco. And that two
 12 terms per year, of said court, shall be held in each of said
 13 circuits, commencing on the first Mondays in March and
 14 September of each year.

1 SEC. 11. *And be it further enacted,* That the clerks and
 2 marshals of said courts of appeals shall be allowed the same
 3 fees and compensation, for like services, as are now allowed
 4 by law to the clerk of the Supreme Court and to the marshal
 5 of the District of Columbia, and shall have like remedies for
 6 collecting and securing them. And the chief justice and
 7 associate justices of the supreme and circuit courts shall be
 8 allowed mileage for all distances travelled by them in going
 9 to or from attending any of their courts that is now allowed

10 by law to members of Congress: *Provided*, That no more
 11 than one mileage, each way, shall be allowed, for any one
 12 term of a court, to any one judge. Said mileage to be au-
 13 thenticated and paid in the same manner that the fees of
 14 clerks and district attorneys now are.

1 SEC. 12. *And be it further enacted*, That to prevent an
 2 interregnum in any of the circuit or district courts, that the
 3 district courts which are by this act abolished, and the circuit
 4 courts which cease in certain districts, and the judges thereof,
 5 shall continue in office and in the exercise of their authority
 6 and functions until the circuit courts, which are to succeed
 7 them, shall be fully organized, by the appointment and quali-
 8 fication, by oath, of the judges and clerks thereof.

1 SEC. 13. *And be it further enacted*, That no appeal or
 2 writ of error shall hereafter be allowed or prosecuted, in
 3 any of the courts of the United States, unless the same shall
 4 be sued out or prayed for within two years from the time
 5 when the judgment, decree, or final order was rendered:
 6 *Provided*, For this purpose the day of rendering the judg-
 7 ment, order, or decree, shall be deemed to have been the
 8 last day of the term at which it was rendered, which last
 9 day shall not be included in the computation of time: *And*
 10 *provided further*, That if the party who appeals or who
 11 presents the writ of error shall, at the time of rendering

12 said judgment, order, or decree, have been an infant, under
13 twenty-one years of age, or a femme covert, or non compos
14 mentis, or imprisoned, in such cases the writ of error or
15 appeal may be prosecuted at any time within two years
16 after the disability is removed.